

February 13, 2008

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U.S. DISTRICT JUDGE  
S.D.N.Y.

Via Facsimile  
Hon. Harold Baer, Jr.  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: U.S. v. Derek Mui et al. 07-CR-46-04 (HB)

07 CR 46-04

Your Honor:

I represent Derek Mui in the above-referenced matter and write in connection with his upcoming surrender, which is scheduled for March 1, 2008. As Your Honor may recall, on January 3, 2008, Mr. Mui was sentenced to nine months of incarceration pursuant to his plea of guilty to bank fraud charges. Since he is eligible to serve his time in a prison camp setting, upon my application Your Honor also recommended that he "be incarcerated at Otisville, New York."

Unfortunately, on or about January 29, 2008, Mr. Mui was notified that he had been designated by the Bureau of Prisons to serve his time at the Metropolitan Detention Center. I am uncertain as to why this designation was made despite the Court's recommendation and Mr. Mui's eligibility for a minimum security setting. As the Court is aware, the MDC is a high security urban detention center, not a minimum security facility, and the conditions of confinement are quite difficult.

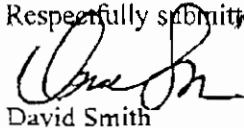
It is my intention to discuss this issue with the Bureau of Prisons but, before I do so, I would like to ask the Court's assistance in clarifying its recommendation and having Mr. Mui re-designated. Mr. Mui's Judgment in a Criminal Case simply states that "The Defendant Be Incarcerated at Otisville, New York." I respectfully request that the Court specifically recommend that he be incarcerated at the Federal Prison Camp Facility at Otisville, New York or, if not available, to the Federal Prison Camps located at Ft. Dix, New Jersey, Fairton, New Jersey or Canaan, Pennsylvania. In that regard, I have attached a proposed order for the Court's convenience. Finally, I have spoken with AUSA David O'Neil regarding this request and he takes no position regarding it.

\* Please send all correspondence to the Uniondale, N.Y. address.

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Thank you in advance for your consideration of this request.

Respectfully submitted,


  
David Smith

Enc.

Cc: AUSA David O'Neil

I make the recommendation  
you agreed as I told you  
I can't order the BOT's to  
do anything - they assign on  
the basis of room &  
afford - good luck - but  
by all means don't miss  
the March 1, 08 surrender  
date.

SO ORDERED:

  
Harold Baer, Jr., U.S.D.J.

Date: 2/13/08

Endorsement:

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I made the recommendation you urged. As I told you I can't order the BOP to do anything - they assign on the basis of room and offense - Good luck but by all means don't miss the March 1, 2008 surrender date.